

**UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
DOCKETING STATEMENT--CIVIL/AGENCY CASES**

**Directions:** Counsel must make a **docketing statement (civil/agency) filed** entry in CM/ECF within 14 days of docketing of the appeal, or within the due date set by the clerk's docketing notice, whichever is later. File with the entry the (1) docketing statement form with any extended answers and (2) any transcript order form. Parties proceeding pro se are not required to file a docketing statement. Opposing counsel who finds a docketing statement inaccurate or incomplete may file any objections within 10 days of service of the docketing statement using the ECF event-**docketing statement objection/correction filed**.

|                                      |   |
|--------------------------------------|---|
| <b>Appeal No. &amp; Caption</b>      | 18-2286   |
| <b>Originating No. &amp; Caption</b> | USPS and NALC, AFL-CIO, BR 545, Case 10-CA-204533 et al |
| <b>Originating Court/Agency</b>      | NATIONAL LABOR RELATIONS BOARD                          |

|  |                           |                                     |
|--|---------------------------|-------------------------------------|
| <b>Jurisdiction</b> (answer any that apply)  |                           |                                     |
| Statute establishing jurisdiction in Court of Appeals  | 29 U.S.C. § 160(e)        |                                     |
| Time allowed for filing in Court of Appeals  | na                        |                                     |
| Date of entry of order or judgment appealed  | October 4, 2018           |                                     |
| Date notice of appeal or petition for review filed   | October 30, 2018          |                                     |
| If cross appeal, date first appeal filed   |                           |                                     |
| Date of filing any post-judgment motion  |                           |                                     |
| Date order entered disposing of any post-judgment motion   |                           |                                     |
| Date of filing any motion to extend appeal period  |                           |                                     |
| Time for filing appeal extended to   |                           |                                     |
| Is appeal from final judgment or order?  | <input type="radio"/> Yes | <input checked="" type="radio"/> No |
| If appeal is not from final judgment, why is order appealable?<br>This is a petition to enforce a final agency order pursuant to Section 10(e) of the National Labor Relations Act, as amended (29 U.S.C. §§ 151, 160(e)). |                           |                                     |

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| <b>Settlement</b> (The docketing statement is used by the circuit mediator in pre-briefing review and mediation conducted under Local Rule 33. Counsel may make a confidential request for mediation by calling the Office of the Circuit Mediator at 843-731-9099.) |                           |                                     |
| Is settlement being discussed?   | <input type="radio"/> Yes | <input checked="" type="radio"/> No |

| <b>Transcript</b> (transcript order must be attached if transcript is needed and not yet on file) |                           |                                     |
|---|---------------------------|-------------------------------------|
| Is transcript needed for this appeal?   | <input type="radio"/> Yes | <input checked="" type="radio"/> No |
| Has transcript been filed in district court?  | <input type="radio"/> Yes | <input checked="" type="radio"/> No |
| Is transcript order attached?   | <input type="radio"/> Yes | <input checked="" type="radio"/> No |

| <b>Case Handling Requirements</b> (answer any that apply)   |   |                                     |
|---|---|-------------------------------------|
| Case number of any prior appeal in same case  |   |                                     |
| Case number of any pending appeal in same case  |   |                                     |
| Identification of any case pending in this Court or Supreme Court raising similar issue   | If abeyance or consolidation is warranted, counsel must file an appropriate motion. |                                     |
| Is expedited disposition necessary?   | <input type="radio"/> Yes   | <input checked="" type="radio"/> No |
|   | If yes, motion to expedite must be filed.   |                                     |
| Is oral argument necessary?   | <input type="radio"/> Yes   | <input checked="" type="radio"/> No |
| Does case involve question of first impression?   | <input type="radio"/> Yes   | <input checked="" type="radio"/> No |
| Does appeal challenge constitutionality of federal or state statute in case to which federal or state government is not a party | <input type="radio"/> Yes   | <input checked="" type="radio"/> No |
|   | If yes, notice re: challenge to constitutionality of law must be filed.             |                                     |

| <b>Nature of Case</b> (Nature of case and disposition below. Attach additional page if necessary.)   |
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| <p>The United States Postal Service, the National Association of Letter Carriers, AFL-CIO, Branch 545, and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to Board approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals. The Board entered an Order approving the settlement agreement and, pursuant to the terms of the Settlement Agreement, the Board now seeks enforcement of that Order.</p> |

**Issues** (Non-binding statement of issues on appeal. Attach additional page if necessary)

United States Postal Service entered into a settlement agreement which provided for the enforcement of the resulting Board order by this Court of Appeals. The settlement also provided that United States Postal Service waived all defenses to the entry of a judgment enforcing that Board's Order. The Board now seeks enforcement of that Order.

**Adverse Parties** (List adverse parties to this appeal and their attorneys; provide party's address if the party is not represented by counsel. Attach additional page if necessary.)

Adverse Party: United States Postal Service

Attorney: Roderick D. Eves, Dpty Mgng Counsel

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1720 Market St., Room 2400

E-mail: uspsnlrb@usps.gov

Phone: (314) 345-5864

Adverse Party: United States Postal Service

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Attorney: Mark F. Wilson

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San Francisco, CA 94188

E-mail: mark.f.wilson@usps.gov

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**Adverse Parties (continued)**

Adverse Party:

Attorney:

Address:

E-mail:

Phone:

Adverse Party:

Attorney:

Address:

E-mail:

Phone:

|  |  |
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| <b>Appellant</b> (Attach additional page if necessary.)  |  |
| Name: National Labor Relations Board<br><br>Attorney: Linda Dreeben<br>Address: National Labor Relations Board<br>1015 Half Street, S.E.<br>Washington, D.C. 20570<br><br>E-mail:<br><br>Phone:  | Name:<br><br>Attorney:<br>Address:<br><br>E-mail:<br><br>Phone:  |
| <b>Appellant (continued)</b>   |  |
| Name:<br><br>Attorney:<br>Address:<br><br>E-mail:<br><br>Phone:  | Name:<br><br>Attorney:<br>Address:<br><br>E-mail:<br><br>Phone:  |
| <b>Signature:</b> <u>s/ Linda Dreeben</u> <b>Date:</b> <u>10/31/2018</u>   |  |
| <b>Counsel for:</b> <u>National Labor Relations Board</u>  |  |
| <b>Certificate of Service:</b> I certify that on <u>10/31/2018</u> the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below (Attach additional page if necessary): |  |
| Roderick D. Eves, Dpty Mgng Counsel<br>United States Postal Service<br>Law Department - NLRB Unit<br>1720 Market St., Room 2400<br>Saint Louis, MO 63155-9948  | Mark F. Wilson, Attny.<br>United States Postal Service<br>Law Department - NLRB Unit<br>1300 Evans Ave., Room 217<br>San Francisco, CA 94188 |
| Signature: s/ Linda Dreeben  | Date: 10/31/2018   |

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

UNITED STATES POSTAL SERVICE

and

NATIONAL ASSOCIATION OF LETTER  
CARRIERS, AFL-CIO, BRANCH 545

Cases 10-CA-204533  
10-CA-205216  
10-CA-205968  
10-CA-205996  
10-CA-206007

**DECISION AND ORDER**

Statement of the Cases

On March 20, 2018, the United States Postal Service (the Respondent), National Association of Letter Carriers, AFL-CIO, Branch 545, and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to Board approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals. The parties waived all further and other proceedings before the Board to which they may be entitled under the National Labor Relations Act and the Board's Rules and Regulations, and the Respondent waived its right to contest the entry of a consent judgment or to receive further notice of the application therefor.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.<sup>1</sup>

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.<sup>2</sup>

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<sup>1</sup> Chairman Ring is recused and took no part in the consideration of this case.

<sup>2</sup> We note that the remedy to which the parties have agreed differs in some respects from previous broad orders that the Board has issued against the Respondent in cases alleging that the Respondent has violated Sec. 8(a)(5) of the Act by failing and refusing to provide relevant information. See, e.g., *United States Postal Service*, 345 NLRB 426 (2005), enfd. 486 F.3d 683 (10th Cir. 2007); *United States Postal Service*, 28-CA-017383 et al., unpublished order issued November 4, 2002, enfd. Case 02-9587 (10th Cir. 2003). These broad orders, as enforced by the United States Courts of Appeals, remain in effect, and the Board's approval of this stipulation does not modify these orders in any respect.

Member Emanuel would not approve the parts of the Order that require the Respondent to take action with respect to "any other union with which Respondent has

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following

### **Findings of Fact**

#### **1. The Respondent's business**

The Respondent provides postal services for the United States and operates various facilities throughout the United States in performing that function, including its facilities located at 3717 Eastway Drive, Charlotte, North Carolina, and 201 North McDowell Street, Charlotte, North Carolina. The Board has jurisdiction over the Respondent and this matter by virtue of Section 1209 of the Postal Reorganization Act (PRA), 39 U.S.C. § 101 et seq.

#### **2. The labor organizations involved**

At all material times, National Association of Letter Carriers, Branch 545 (Letter Carriers Branch 545) has been a labor organization within the meaning of Section 2(5) of the Act.

At all material times, National Association of Letter Carriers, AFL-CIO (National Union) has been a labor organization within the meaning of Section 2(5) of the Act.

### **ORDER**

Based on the above findings of fact, the Formal Settlement Stipulation, and the entire record, and pursuant to Section 10(c) of the National Labor Relations Act, the National Labor Relations Board orders that:

The Respondent, United States Postal Service, Charlotte, North Carolina, its officers, agents, successors, and assigns, shall

1. Cease and desist from the following in connection with the Respondent's employees employed in the Respondent's facilities at 3717 Eastway Drive, Charlotte, North Carolina, and 201 North McDowell Street, Charlotte, North Carolina.

(a) Refusing to bargain collectively and in good faith with the National Union, by failing to furnish, or by unduly delaying furnishing, information that is relevant and necessary to Letter Carriers Branch 545 in performing its duties for the National Union, the exclusive bargaining representative of the unit.

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a collective-bargaining relationship," because no violations against other unions are alleged as part of this case.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by the National Labor Relations Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

(a) Upon request, furnish Letter Carriers Branch 545, or any other union with which the Respondent has an exclusive collective-bargaining relationship at its facilities located at 3717 Eastway Drive, Charlotte, North Carolina, and 201 North McDowell Street, Charlotte, North Carolina, with necessary and relevant information in a timely and appropriate manner.

(b) Waive, for 30 days following issuance of the Board's Order, any contractual deadlines for filing and pursuing grievances related to the requested information that Letter Carriers Branch 545 missed due to the Respondent's delay in providing the information requested as described in the following paragraphs of each complaint:

| <b>Complaint Date</b> | <b>Paragraphs</b> |
|-----------------------|-------------------|
| November 30, 2017     | 9 through 12      |
| December 15, 2017     | 9 through 14      |

(c) Maintain a log at each of the Respondent's facilities located at 3717 Eastway Drive, Charlotte, North Carolina, and 201 North McDowell Street, Charlotte, North Carolina, in which the Respondent will immediately record each information request that Letter Carriers Branch 545, or any other union with which the Respondent has an exclusive collective-bargaining relationship at these facilities, tendered to the Respondent orally or in writing, at those facilities. These logs shall include the following information: a brief description of the information requested; the name of the individual who is making the request; the union and unit involved; the name of the supervisor who received the request; the date the request was made; and the date that the Respondent's manager or supervisor provided Letter Carriers Branch 545 or other such union with which the Respondent has an exclusive collective-bargaining relationship at its facilities located at 3717 Eastway Drive, Charlotte, North Carolina, and 201 North McDowell Street, Charlotte, North Carolina, with the requested information. If the manager or supervisor, having reviewed the documents requested, believes that the Respondent will need additional time to furnish the information, the manager or supervisor will inform Letter Carriers Branch 545, or any other such union with which the Respondent has an exclusive collective-bargaining relationship at these facilities, in writing, requesting additional time and explaining the need for the additional time. Union stewards will be granted reasonable access to the logs, upon request.

(d) Provide for each manager and supervisor who is designated to receive union requests for information at the Respondent's facilities located at 3717 Eastway Drive, Charlotte, North Carolina, and 201 North McDowell Street, Charlotte, North Carolina, annual training that encompasses how to maintain the log and how to tender the

relevant information to Letter Carriers Branch 545, or any other such union with which the Respondent has an exclusive collective-bargaining relationship at these facilities, requested; require that each such supervisor and manager sign an acknowledgment form attesting to the fact that he or she has completed this training. A copy of this acknowledgment form shall be maintained in the supervisor's or manager's training and history files. Supervisors or managers who fail reasonably to supply relevant information, or who fail to supply such information timely, to Letter Carriers Branch 545, or other such union with which the Respondent has an exclusive collective-bargaining relationship at its facilities located at 3717 Eastway Drive, Charlotte, North Carolina, and 201 North McDowell Street, Charlotte, North Carolina, will have this fact mentioned in the "corrective action" column of the semi-annual audit report provided to the district manager and district manager of human resources. A repeated violation could lead to discipline of the supervisor or manager.

(e) Notify Union stewards at the Respondent's facilities located at 3717 Eastway Drive, Charlotte, North Carolina, and 201 North McDowell Street, Charlotte, North Carolina, when the manager or supervisor who is designated to receive union requests for information at that facility has changed.

(f) Require the Respondent's legal or labor relations department to conduct semi-annual audits of the logs at each of the Respondent's facilities located at 3717 Eastway Drive, Charlotte, North Carolina, and 201 North McDowell Street, Charlotte, North Carolina, to ensure that the information requests of Letter Carriers Branch 545 and other such unions with which the Respondent has an exclusive collective-bargaining relationship at these facilities, are being handled in a timely and appropriate manner, and to ensure the logs are being properly maintained. Following the audit, the legal or labor relations department shall tender, in writing, a written report that will be forwarded to the district manager and district manager of human resources.

(g) Within 14 days of service by the Region:

(i) Post at the Respondent's facilities located at 3717 Eastway Drive, Charlotte, North Carolina, and 201 North McDowell Street, Charlotte, North Carolina, copies of the Notice to Employees that the Regional Director for Region 10 shall provide to the Respondent for posting. Copies of the notice, on forms provided by the Regional Director, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted.

(ii) Electronically post the Notice to Employees for employees at the Respondent's facilities located at 3717 Eastway Drive, Charlotte, North Carolina, and 201 North McDowell Street, Charlotte, North Carolina, if the Respondent customarily uses electronic means such as an electronic bulletin board, email, website, or intranet to communicate with those employees.



(iii) Send a copy of any Board Order and Notice to Employees to all its supervisors and managers at the Respondent's facilities at 3717 Eastway Drive, Charlotte, North Carolina, and 201 North McDowell Street, Charlotte, North Carolina.

(h) Within 21 days after service by the Region, file with the Regional Director for Region 10 a sworn certification of a responsible official on a form provided by the Region attesting to the steps the Respondent has taken to comply. The certification shall include a copy of the documents signed by a responsible official attesting to the dates that the notices were received, the dates that the notices were posted, and where the notices were posted; the certification shall also include the dates the Respondent sent the Board Order and Notice to its supervisors and managers, a list of the names and job titles of the individuals to whom the Respondent sent them, and the method the Respondent employed to send them.

(i) Upon request, provide to the Regional Director of Region 10 or his designee, copies of the logs described above in subparagraph (c); the acknowledgement forms, audit reports, and discipline described above in subparagraph (d); and the semi-annual audits and reports from the Respondent's legal or labor relations department described above in subparagraph (f).

Dated, Washington, D.C., October 4, 2018.

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| Lauren McFerran, | Member |
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| Marvin E. Kaplan, | Member |
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| William J. Emanuel, | Member |
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(SEAL)

**NATIONAL LABOR RELATIONS BOARD**

**APPENDIX A**

**NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government**

**PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER  
AND A CONSENT JUDGMENT OF ANY APPROPRIATE  
UNITED STATES COURT OF APPEALS**

**FEDERAL LAW GIVES YOU THE RIGHT TO:**

Form, join, or assist a union  
Choose representatives to bargain with us on your behalf  
Act together with other employees for your benefit and protection  
Choose not to engage in any of these protected activities.

**WE WILL NOT** do anything to prevent you from exercising the above rights.

**WE WILL NOT** fail to provide, or unreasonably delay in providing, National Association of Letter Carriers and its Branch 545 (the Union) with information that it or its National Union needs to represent you.

**WE WILL NOT** in any like or related manner interfere with your rights under the National Labor Relations Act.

**WE WILL** provide the Union with the information it initially requested on May 16, 2017 and the information it requested, in four separate requests, on July 19, 2017.

**WE HAVE** provided the Union with the information it initially requested on July 8, 2017.

**WE WILL**, upon request, provide the Union, and other unions with which we have an exclusive collective-bargaining relationship at our facilities located at 3717 Eastway Drive, and 201 North McDowell Street, Charlotte, North Carolina, with necessary and relevant information in a timely and appropriate manner.

**WE WILL** waive for 30 days following issuance of the Board's Order, any contractual deadlines for filing and pursuing grievances related to the requested information that the Union missed due to our delay in providing the information requested.

**WE WILL** maintain at each of our facilities located at 3717 Eastway Drive and 201 North McDowell Street, Charlotte, North Carolina, a log in which we will immediately record each information request that any union at these facilities with which we have an exclusive collective-bargaining relationship makes, either orally or in writing, at that

facility. **WE WILL** provide union stewards with reasonable access to these logs that pertain to their requests.

**WE WILL** provide annual training for each manager and supervisor who is designated to receive requests for information from any union with which we have an exclusive collective-bargaining relationship at each of our facilities located at 3717 Eastway Drive and 201 North McDowell Street, Charlotte, North Carolina. Such training will encompass how to maintain the log and how to tender the relevant information to the union.

**WE WILL** notify union stewards for all unions with which we have an exclusive collective-bargaining relationship at each of our facilities located at 3717 Eastway Drive and 201 North McDowell Street, Charlotte, North Carolina, when the manager or supervisor who is designated to receive union requests for information at these facilities has changed.

**WE WILL** require our legal or labor relations department to conduct semi-annual audits of the logs at each of our facilities located at 3717 Eastway Drive and 201 North McDowell Street, Charlotte, North Carolina, to ensure that the information requests of any union with which we have an exclusive collective-bargaining relationship are being handled in a timely and appropriate manner and to ensure the logs are being properly maintained.

#### **UNITED STATES POSTAL SERVICE**

The Board's decision can be found at [www.nlrb.gov/case/10-CA-204533](http://www.nlrb.gov/case/10-CA-204533) or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

